

EXHIBIT 7

In The Matter Of:
Griffin vs. City of Atlanta

Deposition Of:
30(b)(6) Patrick Fite

Taken On:
9/22/2020

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<p>IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT COUNTY ATLANTA DIVISION</p> <p>TYLER GRIFFIN, Plaintiff, v. CIVIL ACTION FILE NO. 1:20-cv-02514-TWT</p> <p>CITY OF ATLANTA, DONALD VICKERS, MATTHEW ABAD, AND JOHN DOE #1-5, Defendants.</p> <p>DEPOSITION CONDUCTED VIA VIDEO CONFERENCE</p> <p>VIDEOTAPED 30(b)(6) DEPOSITION OF CITY OF ATLANTA PATRICK FITE</p> <p>September 22, 2020 4:05 p.m.</p> <p>Witness located in Atlanta, Georgia</p> <p>By Jennifer Davis-McLain, RMR, CRR, CRC Certified Court Reporter, License No. 2496</p>	<p style="text-align: right;">Page 3</p> <p>1 INDEX TO EXAMINATIONS</p> <p>2 PAGE</p> <p>3 PATRICK FITE</p> <p>4 Examination by Mr. Kahn5</p> <p>5 Examination by Ms. Nair28</p> <p>6</p> <p>7 INDEX TO EXHIBITS</p> <p>8 EXHIBIT DESCRIPTION PAGE</p> <p>9 Exhibit 1.2 Video8</p> <p>10 Exhibit 3.3 Video21</p> <p>11 Exhibit 4.1 Video18</p> <p>12 Exhibit 4.2 Video18</p> <p>13 Exhibit 24 Defendant Donald Vickers'8</p> <p>14 Response to Plaintiff's First Continuing Interrogatories</p> <p>15 Exhibit 25 Defendant Matthew Abad's9</p> <p>16 Responses to Plaintiff's First Request for Admissions</p> <p>17 Exhibit 42 December 3, 2019, memorandum from .21</p> <p>18 Lieutenant H. Zenelaj (Griffin v. COA 000008-000015)</p> <p>19 Exhibit 70 APD SOP Work Rules7</p> <p>20 Exhibit 72 APD.SOP.3010 Use of Force10</p> <p>21</p> <p>22 (All exhibits marked prior to the</p> <p>23 deposition. Exhibit 70 retained by Mr. Kahn.)</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 2</p> <p>1 REMOTE APPEARANCES OF COUNSEL:</p> <p>2 On behalf of the Plaintiff:</p> <p>3 MATTHEW R. KAHN, ESQUIRE</p> <p>4 JAMES E. BUTLER III, ESQUIRE</p> <p>5 Butler Law Firm</p> <p>6 10 Lenox Pointe NE</p> <p>7 Atlanta, Georgia 30324</p> <p>8 404.587.8423</p> <p>9 matt@butlerfirm.com</p> <p>10 jeb@butlerfirm.com</p> <p>11 On behalf of the Defendants:</p> <p>12 ALISHA MARIE S. NAIR, ESQUIRE</p> <p>13 STACI MILLER, ESQUIRE</p> <p>14 JACQUITA PARKS, ESQUIRE</p> <p>15 City of Atlanta Law Department</p> <p>16 55 Trinity Avenue SW</p> <p>17 Suite 5000</p> <p>18 Atlanta, Georgia 30303</p> <p>19 404.350.6402</p> <p>20 amnair@atlantaga.gov</p> <p>21 sjmiller@atlantaga.gov</p> <p>22 japarks@atlantaga.gov</p> <p>23</p> <p>24</p> <p>25</p> <p>(Pursuant to Article 10(B) of the Rules and Regulations of the Georgia Board of Court Reporting, a written disclosure statement was submitted by the court reporter to all counsel present at the proceeding.)</p>	<p style="text-align: right;">Page 4</p> <p>1 PROCEEDINGS</p> <p>2 MR. KAHN: All right. So this will be the</p> <p>3 continued 30(b)(6) deposition of the City of Atlanta</p> <p>4 taken pursuant to notice and agreement. The</p> <p>5 deposition is taken in the case of Tyler Griffin</p> <p>6 versus the City of Atlanta, Donald Vickers, and</p> <p>7 Matthew Abad. The deposition will be taken pursuant</p> <p>8 to the federal rules for all purposes allowed,</p> <p>9 including use at trial. The deposition is being taken</p> <p>10 on Zoom because of COVID.</p> <p>11 Madam Court Reporter, will you please swear</p> <p>12 in the witness.</p> <p>13 COURT REPORTER: Yes, sir. Before I do, I</p> <p>14 will please ask counsel to identify yourself and agree</p> <p>15 on the record that there is no objection to this</p> <p>16 officer of the court administering a binding oath to</p> <p>17 the witness via Zoom. If we can start --</p> <p>18 MR. KAHN: Sure.</p> <p>19 COURT REPORTER: -- with the noticing</p> <p>20 attorney, please.</p> <p>21 MR. KAHN: Sure. This is Matt Kahn for the</p> <p>22 plaintiff, and I have no objection.</p> <p>23 MR. BUTLER: Jeb Butler for plaintiff. Me</p> <p>24 neither.</p> <p>25 MS. NAIR: Alisha Marie Nair for the City of</p>

<p style="text-align: right;">Page 5</p> <p>1 Atlanta. No objection.</p> <p>2 MS. PARKS: Jacquita Parks for defendants.</p> <p>3 No objection.</p> <p>4 COURT REPORTER: Mr. Fite, if you will</p> <p>5 please -- go ahead, Ms. Miller.</p> <p>6 MS. MILLER: I'm sorry. Staci Miller for</p> <p>7 the City of the Atlanta and defendants.</p> <p>8 PATRICK FITE,</p> <p>9 having been first duly sworn, was examined and</p> <p>10 testified as follows:</p> <p>11 EXAMINATION</p> <p>12 BY MR. KAHN:</p> <p>13 Q. All right. Mr. Fite, thank you for taking</p> <p>14 time out of your day to be here with us. If you will</p> <p>15 just state your name and job title for the record.</p> <p>16 A. My name is Patrick Fite, and I am a academy</p> <p>17 firearms instructor for the City of Atlanta Police</p> <p>18 Department.</p> <p>19 Q. And, Mr. Fite, how long have you been with</p> <p>20 APD?</p> <p>21 A. Twenty-seven years.</p> <p>22 Q. And were you in law enforcement before APD?</p> <p>23 A. No, sir.</p> <p>24 Q. What sort of training do you have?</p> <p>25 A. I have instructor-level training. I'm a</p>	<p style="text-align: right;">Page 7</p> <p>1 behalf of the city on various topics?</p> <p>2 A. Yes, sir.</p> <p>3 Q. And the city chose you to testify about</p> <p>4 certain APD standard operating procedures?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And do you understand that the answers that</p> <p>7 you give today will be the answers of the city in this</p> <p>8 case?</p> <p>9 A. Yes, sir, I do.</p> <p>10 Q. Okay. Sir, isn't it true that a police</p> <p>11 officer should never aim a firearm at a person unless</p> <p>12 shooting that person would be justifiable?</p> <p>13 A. As far as our policy goes, that's correct.</p> <p>14 Q. All right. I want to briefly run through</p> <p>15 some of APD's standard operating procedures with you.</p> <p>16 If you'll give me a minute to load an exhibit on my</p> <p>17 screen.</p> <p>18 Sir, can you see Plaintiff's Exhibit 70 on</p> <p>19 your screen?</p> <p>20 A. Yes, sir.</p> <p>21 Q. I want to -- does this appear to be the APD</p> <p>22 standard operating procedure on work rules?</p> <p>23 A. Yes, sir, it does.</p> <p>24 Q. Do you -- do you see the highlighted portion</p> <p>25 of Plaintiff's Exhibit 70 that says, quote, "Employees</p>
<p style="text-align: right;">Page 6</p> <p>1 state of Georgia firearms instructor. I'm a federal</p> <p>2 firearms instructor. I'm a state of Georgia senior</p> <p>3 general instructor. I'm a state of Georgia defensive</p> <p>4 tactics instructor. And then numerous</p> <p>5 firearms-related training throughout the years, as</p> <p>6 well as my basic training that I received, as every</p> <p>7 officer does with the Atlanta Police Department.</p> <p>8 Q. Okay. Have you received training in use of</p> <p>9 force?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Have you taught other police officers about</p> <p>12 the use of force?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Have you taught other police officers about</p> <p>15 the work rules?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Are there any other subjects that you've</p> <p>18 taught other police officers?</p> <p>19 A. I've taught state law, firearms portion; use</p> <p>20 of deadly force; and some other basic mandate classes</p> <p>21 in the Georgia police basic mandate training. I just</p> <p>22 don't recall all the exact ones throughout the years.</p> <p>23 Q. Thank you, sir.</p> <p>24 All right. And do you understand that we</p> <p>25 asked to speak with someone who could testify on</p>	<p style="text-align: right;">Page 8</p> <p>1 shall not point or aim firearms at persons in</p> <p>2 circumstances unless the discharge of that firearm</p> <p>3 would be justifiable"?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Did I read that correctly?</p> <p>6 A. Yes, you did.</p> <p>7 Q. Okay. And I want to show you a clip that's</p> <p>8 been marked as Plaintiff's Exhibit 1.2. If you'll</p> <p>9 give me a minute, I'll share my screen with you.</p> <p>10 (Video plays.)</p> <p>11 BY MR. KAHN:</p> <p>12 Q. Did you see Defendant Abad aiming his pistol</p> <p>13 at Mr. Griffin?</p> <p>14 A. No. I wouldn't -- I wouldn't define it as</p> <p>15 that.</p> <p>16 Q. Well, let me -- let me show you another</p> <p>17 exhibit.</p> <p>18 Sir, can you see Plaintiff's Exhibit 24,</p> <p>19 which is the City of Atlanta's -- or excuse me --</p> <p>20 Donald Vickers' response to plaintiff's continuing</p> <p>21 interrogatories?</p> <p>22 A. Yes, sir.</p> <p>23 Q. That's the wrong exhibit. Excuse me. Let</p> <p>24 me -- that's -- just give me one second.</p> <p>25 MR. KAHN: Could we go off video for a</p>

<p style="text-align: right;">Page 9</p> <p>1 second and off the record.</p> <p>2 (OFF THE RECORD 4:10-4:11 P.M.)</p> <p>3 BY MR. KAHN:</p> <p>4 Q. All right. All right, sir. Can you see</p> <p>5 Plaintiff's Exhibit 25 on your screen, which is</p> <p>6 Defendant Matthew Abad's responses to plaintiff's</p> <p>7 first request for admissions?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Let me go down to Response 38. Do you see</p> <p>10 there where it says, "Defendant admits that he</p> <p>11 commanded the plaintiff to get out of the vehicle with</p> <p>12 his gun drawn and aimed at plaintiff"?</p> <p>13 A. Yes.</p> <p>14 Q. So, sir, under the rules by which APD</p> <p>15 conducts itself, would it have been justifiable for</p> <p>16 Defendant Abad to discharge his firearm and shoot</p> <p>17 Tyler Griffin here?</p> <p>18 A. No, it would not.</p> <p>19 Q. Would you agree that police officers should</p> <p>20 only use force if it's necessary?</p> <p>21 A. Yes.</p> <p>22 Q. Would you agree that if required to use</p> <p>23 force, police officers should only use reasonable</p> <p>24 force?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 11</p> <p>1 restate it again for me, please, or just say it again.</p> <p>2 Q. Sure. Do these rules mean that APD police</p> <p>3 officers should only use force in an encounter with a</p> <p>4 noncompliant or a violent subject?</p> <p>5 A. Yes, sir.</p> <p>6 Q. And these rules we just read are the rules</p> <p>7 that you've taught other police officers. Right?</p> <p>8 A. Yes, sir.</p> <p>9 Q. I want to show you another video. We're</p> <p>10 going to do Plaintiff's Exhibit 1.2 again.</p> <p>11 (Video plays.)</p> <p>12 BY MR. KAHN:</p> <p>13 Q. Once Mr. Griffin had gotten out of the car,</p> <p>14 he wasn't trying to escape, was he?</p> <p>15 A. He didn't appear to be.</p> <p>16 Q. And Mr. Griffin wasn't trying to fight</p> <p>17 anyone, was he?</p> <p>18 A. He moved the officer's hand, but he didn't</p> <p>19 appear to be fighting with officers.</p> <p>20 Q. What do you think about the video we just</p> <p>21 watched?</p> <p>22 MS. NAIR: Objection as to form. This goes</p> <p>23 beyond the scope. If SPO Fite answers, it will be</p> <p>24 answering as to his personal opinion and not as a</p> <p>25 representative of the city.</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. I'm going to share my screen with you, and I</p> <p>2 want to show APD's use of force standard operating</p> <p>3 procedure which is marked as Plaintiff's Exhibit 2</p> <p>4 [sic]. Can you see that on your screen?</p> <p>5 A. Yes, sir.</p> <p>6 Q. I'm going to flip to page 2.</p> <p>7 Now, do you see the highlighted section,</p> <p>8 4.11, that says, "Employees are expressly prohibited</p> <p>9 from the unnecessary or unreasonable use of force</p> <p>10 against any person or property"?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And then do you see the highlighted section</p> <p>13 below that that says, "Employees will only use that</p> <p>14 force which is reasonable and necessary to effect an</p> <p>15 arrest, prevent escape, necessarily restrict the</p> <p>16 movement of a prisoner, defend the officer or another</p> <p>17 from physical assault, or to accomplish other lawful</p> <p>18 objectives"?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And did I -- I read that correctly, sir?</p> <p>21 A. Yes, you did.</p> <p>22 Q. Do these rules mean that APD police officers</p> <p>23 should only use force in an encounter with a</p> <p>24 noncompliant or violent subject?</p> <p>25 A. I believe that to be true. If you could</p>	<p style="text-align: right;">Page 12</p> <p>1 MR. KAHN: And I'll state for the record</p> <p>2 that I disagree with that. Mr. Fite was appointed to</p> <p>3 speak on the standard operating procedures, and this</p> <p>4 is the application of those standard operating</p> <p>5 procedures to the real world, which is within the</p> <p>6 scope of that topic.</p> <p>7 MS. NAIR: If you can answer the question as</p> <p>8 to your personal opinion, Mr. Fite, you're more than</p> <p>9 able to.</p> <p>10 A. All right. From my personal opinion -- will</p> <p>11 you ask it again, sir, please?</p> <p>12 BY MR. KAHN:</p> <p>13 Q. And I'll state this would be -- I think that</p> <p>14 this is within the scope of the topic. But the</p> <p>15 question is what do you think about the video we just</p> <p>16 watched?</p> <p>17 A. I think that you -- I'd have to know what</p> <p>18 Officer Vickers saw in order to make him use the level</p> <p>19 of force that he chose to use.</p> <p>20 Q. Is that sort of conduct okay?</p> <p>21 A. I'm sorry, sir?</p> <p>22 Q. Is that sort of conduct okay?</p> <p>23 A. If -- again, it's -- you'd have to know his</p> <p>24 perception at the time of what he thought he was</p> <p>25 seeing to justify any kind of force that he used. So</p>


<p style="text-align: right;">Page 13</p> <p>1 if he justified that he needed to use that level of 2 force from what he perceived at the time, then it -- 3 that would be if that was a reasonable -- you know, I 4 can't judge for what he saw that made him choose to 5 use that force. 6 Q. Well, seeing what you saw in the video, 7 which shows Mr. Griffin, do you think that that 8 conduct was okay? 9 A. I would want to know why he chose to do a 10 takedown, given what I saw at the moment. 11 Q. Does APD teach its officers to tackle people 12 in situations like that? 13 A. They teach them to gain control, and we 14 don't necessarily teach tackling as a risk to the 15 officer. They teach in essence a hand check where he 16 wouldn't fully engage with someone so that he didn't 17 go to the ground as well because of the danger to the 18 officers if we tackle somebody and the risk of injury 19 to the officer and the person, as well as you're 20 initiating a ground fight if the person continued to 21 fight. 22 So a takedown -- we do teach takedowns, and 23 we don't advocate fully teaching -- tackling just 24 because you're engaged with a person and you're both 25 going down to the ground due to the risk of injury to</p>	<p style="text-align: right;">Page 15</p> <p>1 room. I was looking at the witness. But I will do -- 2 I will endeavor to make sure that everyone is in the 3 room. 4 MS. NAIR: The second thing that I would ask 5 is that we -- the City of Atlanta draws an objection 6 from the point to which Mr. Fite is answering not on 7 behalf of the city but as to his personal opinion in 8 many of the questions -- the four previous questions 9 that were asked, two of which were as to his personal 10 opinion. 11 The questions that were asked in regards to 12 whether the City of Atlanta teaches a certain method 13 are within the scope of what officer -- SPO Fite was 14 called to testify to, and we have no objection as to 15 those questions. And we may continue. 16 MR. KAHN: And I'll just say again for the 17 record I disagree with what you said. I think that 18 all these questions are within the scope. He was 19 designated as the person to speak on the standard 20 operating procedures. All of these questions have to 21 do with the standard operating procedures and their 22 application to the video. 23 But that's fine. We can disagree on that. 24 I'll move on. 25</p>
<p style="text-align: right;">Page 14</p> <p>1 both parties. 2 MS. NAIR: Objection. I apologize. My Zoom 3 went out, and so I'm not sure what the questions were 4 or why my Zoom cut out. So we need to back up. 5 MR. KAHN: Let's go off the video for a 6 second. 7 (OFF THE RECORD 4:18-4:23 P.M.) 8 MS. NAIR: Just for a point of clarity, if, 9 in fact, anyone sees the City of Atlanta attorneys, 10 specifically, myself, cut out or if Ms. Miller cuts 11 out while she is doing an examination or charged with 12 doing an examination, I would request that you stop 13 the communications immediately and not continue in 14 further conversation and questioning. 15 There were at least three to four questions 16 asked while I was off camera and Mr. Fite was without 17 counsel. 18 The -- 19 MR. KAHN: I'll just -- 20 MS. NAIR: -- second thing -- 21 MR. KAHN: I'll just say for the record I 22 did not see -- notice that you had left the Zoom chat. 23 Your name -- everyone's name still appeared up at the 24 top. And, frankly, I'm not -- I wasn't paying much 25 attention to you, you know, the other faces in the</p>	<p style="text-align: right;">Page 16</p> <p>1 BY MR. KAHN: 2 Q. So, Mr. Fite, you were just saying that you 3 would have to know what Mr. Vickers saw to be able to 4 comment on whether that was appropriate. But what I'd 5 like to ask you is if you saw anything that justified 6 the use of force in that video. 7 A. The -- when you moved from what -- the term 8 we would use -- from passive resistance to active 9 resistance, that dictates the level of force that a 10 officer will use. 11 There was some active resistance when the 12 driver -- I believe it was Officer Abad -- when he -- 13 when he had his hand on him to either try to hold him 14 to prevent him from running or hold him up or whatever 15 the case may be. When his hand was on him and the 16 driver moved his hand or swatted his hand or whatever 17 the wording that we use for it out -- you know, off of 18 him, that does -- that does move into the level of 19 what would be active resistance. That would open up 20 the officers using some type of force at that point. 21 Just, again, without knowing 22 Officer Vickers' perception, I wouldn't understand his 23 level of force at that point. 24 Q. So I'm going to ask the question again. 25 That was an answer, but it -- I don't think it</p>

<p style="text-align: right;">Page 17</p> <p>1 answered my question. And that's based on what you</p> <p>2 saw, Mr. Fite, was the use of force justified in the</p> <p>3 video?</p> <p>4 A. From what I saw, I wouldn't think so.</p> <p>5 Q. Mr. Fite, isn't it true that under APD's own</p> <p>6 standard operating procedures, police officers are</p> <p>7 required to be polite and courteous?</p> <p>8 A. They're required to be courteous, yes.</p> <p>9 Q. I'm going to show you an exhibit on my</p> <p>10 screen if you'll give me a second here. It's</p> <p>11 Plaintiff's Exhibit 70 again. We'll go to page 3.</p> <p>12 Do you see the highlighted portion that</p> <p>13 says, quote, "Being considerate of the rights,</p> <p>14 feelings, and interests of all persons is something</p> <p>15 that is required of Atlanta employees"?</p> <p>16 A. Yes, sir.</p> <p>17 Q. We'll zoom in there.</p> <p>18 And did I read that correctly?</p> <p>19 A. Yes, you did.</p> <p>20 Q. I'm going to go on to page 6. And can you</p> <p>21 see where it says -- it's Section 4.2.2 titled</p> <p>22 "Courtesy," and it says, "Employees shall be civil,</p> <p>23 orderly, and courteous to the public, coworkers, and</p> <p>24 supervisors, and should not use coarse, insensitive,</p> <p>25 abusive, violent, or profane language."</p>	<p style="text-align: right;">Page 19</p> <p>1 Defendant Vickers being considerate of Mr. Griffin's</p> <p>2 feelings when he said, "You're such a little girl</p> <p>3 right now."</p> <p>4 MS. NAIR: Objection again.</p> <p>5 You may answer if you know whether he was</p> <p>6 being considerate.</p> <p>7 A. Again, I don't know whether he was being</p> <p>8 considerate or not. I don't -- in general, I wouldn't</p> <p>9 think that's a considerate statement, but I don't know</p> <p>10 whether he was being considerate to him or not.</p> <p>11 BY MR. KAHN:</p> <p>12 Q. Was Defendant Vickers being considerate of</p> <p>13 Mr. Griffin's feelings as he laughed at Mr. Griffin?</p> <p>14 MS. NAIR: Objection.</p> <p>15 You may answer if you know whether</p> <p>16 Officer Vickers was being considerate when he laughed.</p> <p>17 A. Again, without knowing if his laughter was</p> <p>18 directed at him or not, I couldn't answer that</p> <p>19 question.</p> <p>20 BY MR. KAHN:</p> <p>21 Q. Did -- do we need to watch the video again?</p> <p>22 Is there any confusion as to who -- to whom</p> <p>23 Officer Vickers was laughing?</p> <p>24 A. I mean, he's laughing at the situation. I</p> <p>25 don't know if he's definitely laughing at the</p>
<p style="text-align: right;">Page 18</p> <p>1 A. Yes, sir.</p> <p>2 Q. Police officers are supposed to avoid</p> <p>3 insensitive and abusive language. Right? That's what</p> <p>4 that rule means.</p> <p>5 A. Yes, sir.</p> <p>6 Q. Now I want to -- I want to show you two</p> <p>7 video clips. Give me just a second. The first one is</p> <p>8 going to be marked Plaintiff's Exhibit 4.1.</p> <p>9 (Video plays.)</p> <p>10 BY MR. KAHN:</p> <p>11 Q. The next one -- the next video is going to</p> <p>12 be Plaintiff's Exhibit 4.2.</p> <p>13 (Video plays.)</p> <p>14 BY MR. KAHN:</p> <p>15 Q. Mr. Fite, was Defendant Vickers being</p> <p>16 considerate of Mr. Griffin's feelings when he said,</p> <p>17 "You're such a little girl right now"?</p> <p>18 MS. NAIR: Objection.</p> <p>19 You can answer if you know what</p> <p>20 Officer Vickers was thinking at that moment.</p> <p>21 A. I wouldn't have any idea what</p> <p>22 Officer Vickers was thinking at that moment.</p> <p>23 BY MR. KAHN:</p> <p>24 Q. And, sir, my question was not whether</p> <p>25 Officer Vickers was thinking anything. It was was</p>	<p style="text-align: right;">Page 20</p> <p>1 defendant -- or the driver specifically.</p> <p>2 Q. Is there anything funny to you about this</p> <p>3 situation?</p> <p>4 A. No.</p> <p>5 MS. NAIR: Objection at this moment. If</p> <p>6 Officer Vickers -- or excuse me -- SPO Fite is</p> <p>7 answering this question, it will be as to his personal</p> <p>8 opinion and not the opinion of the city.</p> <p>9 You may answer if you have an opinion on</p> <p>10 that.</p> <p>11 A. My opinion would be no, they were not being</p> <p>12 sensitive to the driver.</p> <p>13 BY MR. KAHN:</p> <p>14 Q. Okay. And is it okay for officers to hurt</p> <p>15 people and then laugh at them?</p> <p>16 A. That would be outside of the courtesy SOP</p> <p>17 that you just showed us -- showed me.</p> <p>18 Q. Mr. Fite, isn't it true that police officers</p> <p>19 are supposed to call an ambulance when someone is</p> <p>20 seriously injured?</p> <p>21 A. If they -- if they seek medical attention --</p> <p>22 if they request it, they should -- they should either</p> <p>23 take them to receive care or have the care come to</p> <p>24 them, depending on the injury.</p> <p>25 Q. Okay. Well, let's look at Plaintiff's</p>

<p>Page 21</p> <p>1 Exhibit 42 for a second. I'm going to scroll down to 2 page 6. 3 Do you see that -- the highlighted section 4 that I've pulled up that says, "Seriously ill or 5 injured prisoners will be taken to Grady Hospital for 6 medical examination and treatment prior to being taken 7 to the appropriate detention facility"?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And do you see under that where it's 10 underlined and emphasized and it says, "Unless 11 otherwise approved by supervisor, the arresting 12 officer will in the accompany -- will accompany 13 seriously ill or injured prisoners to Grady in the 14 ambulance"?</p> <p>15 A. Yes, sir.</p> <p>16 Q. So I'm going to show you another exhibit. 17 This is a video that's marked as Plaintiff's 18 Exhibit 3.3. 19 (Video plays.) 20 BY MR. KAHN: 21 Q. That wasn't an ambulance that they were 22 putting Mr. Griffin into, was it?</p> <p>23 A. No, sir.</p> <p>24 Q. What do you call that type of vehicle?</p> <p>25 A. It's the wagon or the prisoner transport.</p>	<p>Page 23</p> <p>1 answer the question. 2 MR. KAHN: Ms. Nair, I'm going to have to 3 insist that you stop instructing the witness on how to 4 testify. That's entirely improper. You can put your 5 objection on the record, but you cannot tell the 6 witness how to testify. 7 MS. NAIR: Mr. Kahn, I respectfully 8 disagree. I can state my objection, and I can also 9 restate your question. If he knows the answer, he may 10 answer. 11 A. He had a reaction as if it was causing him 12 pain. 13 BY MR. KAHN: 14 Q. What was that reaction? 15 A. He seemed to yell. 16 Q. Did you hear Mr. Griffin screaming in pain? 17 A. I heard him screaming. 18 Q. Well, did it sound like it hurt to you? 19 MS. NAIR: Objection. Mr. Fite is not 20 called as a fact witness. 21 BY MR. KAHN: 22 Q. Mr. Fite, again, you can always answer my 23 questions. Ms. Nair can make objections, but I'm 24 allowed to ask you whatever I want. 25 And so the question is does it sound like it</p>
<p>Page 22</p> <p>1 Q. An officer grabs Mr. Griffin by his left 2 ankle to push him in there, doesn't he? 3 MS. NAIR: Objection as to form. 4 If you know the answer to that, SPO Fite, 5 you may answer it. 6 A. I saw him with his hands on his legs. 7 That -- wouldn't necessarily say they grabbed him. 8 They were trying to assist him to get in the wagon. 9 BY MR. KAHN: 10 Q. Do you think that hurt Mr. Griffin? 11 MS. NAIR: Objection as to form. That's 12 calling -- 13 If you -- if you know whether it hurt 14 Mr. Griffin or not, you may answer. 15 A. I wouldn't know whether it hurt him or not. 16 BY MR. KAHN: 17 Q. Well, I asked if you -- if you thought that 18 it hurt him. Do you think that it hurt? 19 MS. NAIR: Objection. It's the same. 20 BY MR. KAHN: 21 Q. Sir, you can answer. 22 A. You said I -- for me to answer it? 23 Q. Yes, sir. 24 MS. NAIR: If you know whether -- if you 25 think whether or not it hurt Mr. Griffin, yes, you may</p>	<p>Page 24</p> <p>1 hurt Mr. Griffin. 2 MS. NAIR: The objection remains. 3 A. You said -- in my opinion, it sounded like a 4 reaction of pain. 5 BY MR. KAHN: 6 Q. Mr. Fite, is what Defendant Abad did with 7 Tyler Griffin in the video that you saw allowed under 8 the policies and rules of the APD? 9 A. Are you talk- -- I mean, from the initial 10 contact all the way through, or are you talking about 11 the contact where he was trying to walk him back 12 apparently up the driveway? 13 Q. The entire -- the entire video. 14 A. Officer Abad, yes. 15 Q. Is what Defendant Vickers did with 16 Mr. Griffin allowed under the policies and procedures 17 of APD? 18 A. My -- in my opinion, from the question asked 19 earlier about the amount of force used -- outside of 20 that, that would be, yes. 21 Q. Do you approve of the way that Mr. Vickers 22 acted towards Mr. Griffin? 23 MS. NAIR: Objection. This is outside the 24 scope of what SPO Fite is called to testify to. If 25 he's answering, he's answering as to his personal</p>

<p style="text-align: right;">Page 25</p> <p>1 opinion and not the opinion of the city.</p> <p>2 A. Without -- by simply watching the video and</p> <p>3 not having a full account of either of the officers'</p> <p>4 statements or anything that they've said, it's very</p> <p>5 difficult for me, given my position, to correctly and</p> <p>6 fully answer the question, because you're asking me</p> <p>7 what they thought and what they saw, what they</p> <p>8 perceived, and how they acted.</p> <p>9 I can watch the video just like anybody can</p> <p>10 and have a personal opinion on it, but without having</p> <p>11 the full benefit of everything to include their</p> <p>12 statements and Mr. Griffin's statements, it would be</p> <p>13 almost impossible for me to answer that question</p> <p>14 thoroughly.</p> <p>15 BY MR. KAHN:</p> <p>16 Q. Well, sir, what I'm asking of you is to</p> <p>17 explain whether you, based on what you've seen in the</p> <p>18 video, approve of the way that these police officers</p> <p>19 behaved towards Mr. Griffin so when the jury</p> <p>20 eventually sees this case and hears your testimony,</p> <p>21 they will know what you think.</p> <p>22 MS. NAIR: I'm going to object again.</p> <p>23 This -- and it's asked and answered. SPO Fite, if</p> <p>24 he's answering, is to his personal opinion and not to</p> <p>25 the city's.</p>	<p style="text-align: right;">Page 27</p> <p>1 what these officers did to Mr. Griffin, and that's a</p> <p>2 yes-or-no question.</p> <p>3 MS. NAIR: Objection again as to asked and</p> <p>4 answered. And the opinion that SPO Fite will be</p> <p>5 giving is to his personal opinion and not the opinion</p> <p>6 of the city.</p> <p>7 A. Mr. Kahn, would you want me to answer just</p> <p>8 my personal opinion?</p> <p>9 BY MR. KAHN:</p> <p>10 Q. Yes, sir. I'll state the question again for</p> <p>11 the record.</p> <p>12 Do you approve of what these officers did to</p> <p>13 Tyler Griffin? Yes or no?</p> <p>14 A. I don't think that's a yes-or-no answer,</p> <p>15 because it's a -- it's complicated. There are</p> <p>16 different parts and different phases of it, you know.</p> <p>17 I approve of some of it, but not all of it is -- I</p> <p>18 can't answer yes or no for the entire event.</p> <p>19 Q. Do you approve --</p> <p>20 A. Most of it I approve of. In my personal</p> <p>21 opinion, some of it I don't approve of.</p> <p>22 Q. Sir, what part do you not approve of?</p> <p>23 A. I wouldn't approve of the level of force</p> <p>24 that I saw Officer Vickers use.</p> <p>25 MR. KAHN: No further questions.</p>
<p style="text-align: right;">Page 26</p> <p>1 A. It is my personal opinion if I'm watching it</p> <p>2 without any information that I have, which is only</p> <p>3 watching the videos just like you did, would be that I</p> <p>4 would need to know why Officer Vickers used that level</p> <p>5 of force to take him to the ground.</p> <p>6 At that point, continuing on just from</p> <p>7 watching the videos -- where Mr. Griffin could stand</p> <p>8 and then he couldn't stand. He could walk; then he</p> <p>9 couldn't walk -- I think the officers at that point</p> <p>10 were doing the best they could to get him into the</p> <p>11 wagon without stopping right there to bring medical</p> <p>12 attention to him.</p> <p>13 BY MR. KAHN:</p> <p>14 Q. Mr. Fite, as an APD officer of 27 years and</p> <p>15 an instructor of use of force, I'm asking you for your</p> <p>16 opinion. And that's whether you approve of what these</p> <p>17 officers did to Tyler Griffin. That's not --</p> <p>18 MS. NAIR: I'm going to object again.</p> <p>19 MR. KAHN: Let me -- you've got --</p> <p>20 MS. NAIR: It's asked and answered.</p> <p>21 MR. KAHN: -- to let me finish my question,</p> <p>22 ma'am.</p> <p>23 MS. NAIR: Oh, forgive me.</p> <p>24 BY MR. KAHN:</p> <p>25 Q. So the question is whether you approve of</p>	<p style="text-align: right;">Page 28</p> <p>1 EXAMINATION</p> <p>2 BY MS. NAIR:</p> <p>3 Q. SPO Fite, I have a few questions for you.</p> <p>4 You --</p> <p>5 A. Okay.</p> <p>6 Q. -- testified as to the totality of the</p> <p>7 circumstances. Can you explain what factors are used</p> <p>8 in determining what level of force is appropriate?</p> <p>9 A. Some of the factors important that we teach</p> <p>10 and that we use was, you know, the severity of the</p> <p>11 crime at issue, the immediate danger to the officers</p> <p>12 or others, and whether or not the suspect was evading</p> <p>13 arrest or attempting to -- attempting resist --</p> <p>14 physically resist them.</p> <p>15 Q. And --</p> <p>16 A. Those were some of the factors that would</p> <p>17 go -- that would go into the amount of force they</p> <p>18 decided to use.</p> <p>19 Q. Thank you.</p> <p>20 Is the height of a suspect versus the height</p> <p>21 of an officer a factor that can be taken into</p> <p>22 consideration?</p> <p>23 A. Yes, it --</p> <p>24 MR. KAHN: Objection.</p> <p>25 A. -- can.</p>

<p style="text-align: right;">Page 29</p> <p>1 MR. KAHN: Leading.</p> <p>2 A. I'm sorry.</p> <p>3 BY MS. NAIR:</p> <p>4 Q. I'll ask the question again.</p> <p>5 Is height a factor that can be taken into</p> <p>6 consideration? The height of an individual versus the</p> <p>7 height of an officer -- is that a factor that can be</p> <p>8 taken into consideration?</p> <p>9 MR. KAHN: Objection. Vague and to the form</p> <p>10 of the question.</p> <p>11 BY MS. NAIR:</p> <p>12 Q. You may still answer the question.</p> <p>13 A. Yes. Size -- physical size of either the</p> <p>14 officer or the offender would matter in either</p> <p>15 direction.</p> <p>16 Q. Is age something that can be taken into</p> <p>17 consideration?</p> <p>18 MR. KAHN: Objection. Vague.</p> <p>19 BY MS. NAIR:</p> <p>20 Q. You may --</p> <p>21 A. Yes.</p> <p>22 Q. -- answer.</p> <p>23 A. It would be. It would be -- those would be</p> <p>24 considered what's called Graham factors.</p> <p>25 Q. Can you express some more of the Graham</p>	<p style="text-align: right;">Page 31</p> <p>1 A. Yes, ma'am.</p> <p>2 Q. And you testified -- or let me restate that</p> <p>3 question.</p> <p>4 When did -- did this event turn into an</p> <p>5 active resistance from Mr. Griffin?</p> <p>6 A. Yes.</p> <p>7 Q. When did it turn into an active resistance</p> <p>8 from Mr. Griffin?</p> <p>9 A. When he removed -- physically moved</p> <p>10 Officer Abad's hand off of him.</p> <p>11 Q. When an event turns into active resistance,</p> <p>12 is there -- does the Atlanta Police Department teach</p> <p>13 regarding use of force after it changes from passive</p> <p>14 resistance to active resistance?</p> <p>15 A. It just changes the level of technique that</p> <p>16 they could use and moves them towards either using</p> <p>17 more physical force or to begin using their tools that</p> <p>18 they have available to them.</p> <p>19 Q. The levels or the types of physical force</p> <p>20 that can be used -- do you recall how many levels or</p> <p>21 types of physical force can be used?</p> <p>22 A. Not to exact numbers, but it would go from,</p> <p>23 you know, a firm grip control as if you were, you</p> <p>24 know, holding someone's arm where they couldn't run</p> <p>25 from you to some compliance holds where you're</p>
<p style="text-align: right;">Page 30</p> <p>1 factors that are taken into consideration in</p> <p>2 determining the appropriate level of force to use?</p> <p>3 A. Some of the other ones would be a sudden</p> <p>4 attack, inability for the officer to disengage, gender</p> <p>5 differences, age difference, mental capacity as known</p> <p>6 to the officers at the time. Close proximity to a</p> <p>7 weapon is another one.</p> <p>8 And I think that covers most of the broad</p> <p>9 categories in there. Multiple offenders or multiple</p> <p>10 officers. That can go either way as well.</p> <p>11 Q. Were you able to see the height of the</p> <p>12 plaintiff, Mr. Griffin, in this case?</p> <p>13 A. I was. But without viewing the video again,</p> <p>14 I couldn't say exactly the difference. I believe he</p> <p>15 would be taller and bigger than Officer Abad was.</p> <p>16 Q. When you say "bigger," are you talking about</p> <p>17 weight or structure?</p> <p>18 A. Both. He seemed to be heavier-set and have</p> <p>19 a larger build than Officer Abad.</p> <p>20 Q. Is that a factor that an officer can take</p> <p>21 into consideration when determining the appropriate</p> <p>22 use of force?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. You testified earlier as to active versus</p> <p>25 passive resistance. Do you recall that testimony?</p>	<p style="text-align: right;">Page 32</p> <p>1 manipulating joints in order to cause an amount of</p> <p>2 pain to gain compliance up to, you know, hand strikes</p> <p>3 or takedowns, and then into the tools that they begin</p> <p>4 to use that -- all of those at each of those different</p> <p>5 levels.</p> <p>6 Q. You testified that you would not have used</p> <p>7 that level of force. Was that a correct --</p> <p>8 A. From what --</p> <p>9 Q. -- assessment of your testimony?</p> <p>10 A. I think from what I saw in the video, I</p> <p>11 would not have. But absent having, you know, any idea</p> <p>12 of what Officer Vickers saw or any statement that he</p> <p>13 made, I don't think I could completely answer that.</p> <p>14 Q. Was the level of force that Officer Vickers</p> <p>15 used prohibited as an option?</p> <p>16 A. It wouldn't be prohibited. It'd have to be</p> <p>17 explained.</p> <p>18 Q. One second, please.</p> <p>19 I don't believe I have anything further for</p> <p>20 you, SPO Fite. I appreciate your time today. Thank</p> <p>21 you.</p> <p>22 A. Thank you, ma'am.</p> <p>23 MR. KAHN: SPO Fite, thank you for your</p> <p>24 time. Plaintiff has no further questions.</p> <p>25 (DEPOSITION CONCLUDED AT 4:50 P.M.)</p>

<p style="text-align: right;">Page 33</p> <p>1 (Pursuant to Rule 30(e) of the Federal Rules 2 of Civil Procedure and/or O.C.G.A. 9-11-30(e), 3 signature of the witness has been waived.) 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 35</p> <p>1 CERTIFICATE 2 STATE OF GEORGIA: 3 COUNTY OF COBB: 4 I hereby certify that the total transcript, 5 pages 1 through 33, represent a true, complete, and 6 correct transcript of the proceedings taken down by me 7 in the case aforesaid (and exhibits admitted, if 8 applicable); that the foregoing transcript is a true 9 and correct record of the evidence given to the best 10 of my ability. 11 The above certification is expressly 12 withdrawn upon the disassembly or photocopying of the 13 foregoing transcript, unless said disassembly or 14 photocopying is done under the auspices of myself and 15 the signature and original seal is attached thereto. 16 I further certify that I am not a relative 17 or employee or attorney of any party, nor am I 18 financially interested in the outcome of the actions. 19 This 29th day of September, 2020. 20 21  22 Jennifer Davis-McLain, RMR, CRR, CRC, CCR-2496 23 Georgia Certified Court Reporter 24 25</p>
<p style="text-align: right;">Page 34</p> <p>1 The following reporter and firm disclosures 2 were presented at this proceeding for review by 3 counsel: 4 5 REPORTER DISCLOSURES 6 The following representations and 7 disclosures are made in compliance with Georgia Law, 8 more specifically: 9 Article 10(B) of the Rules and Regulations 10 of the Board of Court Reporting (disclosure forms) 11 O.C.G.A. 9-11-28(c) (disqualification of 12 reporter for financial interest) 13 O.C.G.A. 15-14-37(a) and (b) (prohibitions 14 against contracts except on a case-by-case basis). 15 - I am a certified reporter in the state of Georgia. 16 - I am a subcontractor for Pope Reporting & Video. 17 - I have been assigned to make a complete and 18 accurate record of these proceedings. 19 - I have no relationship of interest in the matter 20 on which I am about to report which would 21 disqualify me from making a verbatim record or 22 maintaining my obligation of impartiality in 23 compliance with the Code of Professional Ethics. 24 - I have no direct contract with any party in this 25 action and my compensation is determined solely by the terms of my subcontractor agreement. FIRM DISCLOSURES - Pope Reporting & Video was contacted to provide reporting services by the noticing or taking attorney in this matter. - There is no agreement in place that is prohibited by O.C.G.A. 15-14-37(a) and (b). Any case-specific discounts are automatically applied to all parties at such time as any party receives a discount. - Transcripts: The transcript of this proceeding as produced will be a true, correct, and complete record of the colloquies, questions, and answers as submitted by the certified court reporter. - Exhibits: No changes will be made to the exhibits as submitted by the reporter, attorneys, or witnesses. - Password-Protected Access: Transcripts and exhibits relating to this proceeding will be uploaded to a password-protected repository, to which all ordering parties will have access.</p>	

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